



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET  
STATE PLANNING COORDINATION

April 25, 2007

Eli Mast  
246 Applegrove School Road  
Wyoming, DE 19934

RE: PLUS review – PLUS 2007-03-08; Mast Property

Dear Mr. Mast:

Thank you for meeting with State agency planners on March 28, 2007 to discuss the proposed plans for the Mast property located at 246 Applegrove School Road near Dover.

According to the information received, you are seeking a rezoning of  $\frac{3}{4}$  acre portion of the farm from AC to BN through Kent County for bulk food storage. Specifically, you are planning to sell bulk flour, sugar and other items to the Amish community. This PLUS review is for both the rezoning application and the comprehensive plan amendment that will be required should Levy Court choose to rezone this property.

This proposal is located in Investment Level 4 according to the Strategies for State Policies and Spending, and is outside the growth zone according to the Kent County Comprehensive Plan. **The comments in this letter are technical, and are not intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to construct the development you indicate or any subdivision thereof on these lands.**

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

This project represents a rezoning that will result in a commercial use in an Investment Level 4 area according to the *Strategies for State Policies and Spending*. This project is also located outside the growth zone according to Kent County's certified comprehensive plan. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The project as proposed has the potential to bring a commercial use to an area where the State has no plans to invest in infrastructure upgrades or additional services. The commercial activities and employees will need access to services and infrastructure such as police, and transportation. To provide some examples, the State government funds 100 percent of roads and paratransit services, and the cost of police protection in the unincorporated portion of Kent County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the commercial use matures and the cost of maintaining infrastructure and providing services increases.

At the PLUS meeting, the applicant described the intended use of the rezoned parcel as a store to sell bulk foods and other products to the Amish community. As described, the proposed store would be compatible with the existing farm use and also serve a community that resides in this rural area. Our office supports accessory uses and other measures which allow farmers to gain extra income while continuing to farm their land.

Our office is opposed to this rezoning request because the site is inconsistent with the *Strategies for State Policies and Spending*. The proposed commercial zoning district would allow a wide range of commercial land uses to be located on this parcel, many of

which would be incompatible with the rural area and create the demand for additional State funded services and infrastructure. Our office would not be opposed to a conditional use or other legal mechanism which would restrict the use of the site to the proposed bulk foods store to serve the Amish community as described by the applicant at the PLUS meeting.

**Division of Historical and Cultural Affairs – Contact: Alice Guerrant 739-5685**

The DHCA is not in favor of this zoning change to commercial in Level 4, and agree with the other agencies that a Conditional Use permit would be more appropriate here. The property is a c. 1900 farm (K-1259), and other historic farms are in the area. They do think that replacing the current store with a somewhat larger building in the Amish style will not have an adverse effect on this historic property.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) This rezoning is proposed for a Level 4 Area as defined by the *Strategies for State Policies and Spending*. The proposed business expansion would primarily serve the Amish community, and would therefore support the rural land uses that the Strategies define as appropriate in Level 4 Areas. For that reason, we support the proposed business expansion. However, the proposed rezoning would create an isolated BN district in the middle of a larger AC district. Not only would such an action be contrary to the Strategies, but it would appear to be spot zoning, which is illegal. It would certainly create a parcel that is split-zoned, which is administratively awkward and generally not desirable. DelDOT recommends recommend that the County work with the Masts to find another way to accommodate what they want to do. If the County Code permits it, a conditional use approval would seem to be the most appropriate approach.
- 2) Assuming that the expansion will be approved by some means, DelDOT offers the following comments which would apply to the expansion:
  - a) Apple Grove School Road is classified as a local road. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 30 from the centerline on local roads. Therefore DelDOT will require right-of-way dedication along the frontage of the farm to provide any additional width needed.
  - b) DelDOT will require that the farm entrance be improved consistent with DelDOT's commercial entrance regulations. The applicant's engineer or surveyor should contact our project manager for Kent County, Mr. Brad

Herb, to determine our specific requirements in this regard. Mr. Herb may be reached by telephone at (302) 266-9600 or by mail at 121 Continental Drive, Suite 109, Newark, DE 19713.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

### **Wetlands/Soil Assessment**

Because the proposed project is part of a rezoning request to expand an existing bulk food store on a small well-drained parcel of land, it is not likely that this project will produce significant impacts to the environment. Therefore, we have no specific concerns or commentary regarding this project's proposed design.

### **Water Supply**

The project information sheets state that an individual on-site well will be used to provide water for the proposed project. Our records indicate that the project is not located in an area where public water service is available. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

### **Wastewater Disposal**

If there is indoor plumbing, or if waste water is being discharged improperly, the applicant may need a permit from the Ground Water Discharges Section.

### **Sediment and Erosion Control/Stormwater Management**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity of more than 5,000 square feet taking place on the site. The plan review and approval as well as construction inspection will be coordinated through the Kent Conservation District. Contact Jared Adkins, Program Manager, at (302) 741-2600, ext. 3, for details regarding submittal requirements and fees.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to the Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre-development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique. Green Technology BMPs must be given first consideration for stormwater quality management. Each stormwater management facility should have an adequate outlet for release of stormwater.

It is strongly recommended that you contact the reviewing agency to schedule a preliminary meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

### **State Fire Marshal's Office – Contact: RT Leicht 739-4394**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

❖ ***This Agency has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.***

a. **Fire Protection Water Requirements:**

- Since the dwellings of the subdivision are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.

b. **Accessibility:**

- All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Applegrove School Rd must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

c. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Scott Blaier 698-4500**

The proposed rezoning request from AC to BN is in an area designated as Investment Level 4 under the *Strategies for State Policies and Spending*. The *Strategies* do not support this type of isolated zoning in this area. The intent of this plan is to preserve the agricultural lands, forestlands, recreational uses, and open spaces that are preferred uses in Level 4 areas.

However, the Department understands that this business will sell locally produced agricultural products in addition to canned and dry goods. Furthermore, the Department understands that this business is unique in the manner in which it supports the local Amish agricultural community.

For that reason the Department would support Kent County granting a conditional use permit to operate the facility as it was presented at the March 28 PLUS meeting. The Department of Agriculture believes this specific request is not inconsistent with the State Strategies. However, the Department would not be in favor of permanently rezoning the property to BN because of the unintended consequences should the property be sold by the current owner, and the new owner decide to take full advantage of the BN zoning to develop a business that is inconsistent with the local rural character and State Strategies.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

**Department of Education – Contact: John Marinucci 739-4658**

This proposed development appears to be in both the Capital and Caesar Rodney School Districts. This rezoning request and site plan appears to have no impact on educational infrastructure, capacity or demand. The DOE has no objections or comments regarding this rezoning request and site plan.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of**

**the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script, reading "Constance C. Holland".

Constance C. Holland, AICP  
Director

CC: Kent County